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The Only Way Out of The Impasse Over Germany

Perhaps the best place to begin in an effort to understand the growing conflict over Germany is with a remark made by a British Laborite during the debate on ratification of the Paris and London agreements for German rearmament. The Parliamentary Report next morning in the *Times* of London only gave him two sentences, but they said more than any other speech in the House. "MR. HOBSON (Keighley, Lab.)," it reported, "welcomed the treaties. Without them, he said, Washington and Bonn would have controlled the defenses of Europe."

It was no enthusiasm for a military partnership with Germany, it was the fear that a Washington-Bonn axis would replace the Atlantic alliance, which spurred London and Paris into action after the collapse of E.D.C. This was the club which belabored the Anglo-French donkey behind the smokescreen of "partnership." But there was also a carrot. The carrot was that if the English and French went along with our desire to rearm Germany, we would then go along with their desire for a new conference on the reunification of Germany with the U.S.S.R.

Why is American policy at one and the same time drifting toward co-existence, yet insisting on German rearmament? Logically the two may seem incompatible, since the remilitarization of Germany threatens to revive German expansionism. The answer, it seems to me, is quite simple. The prime molders of American policy are big business interests with a huge stake in the Reich. They want to anchor it firmly on the Western side. They are prepared for co-existence with the Soviet bloc. But they believe that they will "co-exist" with greater bargain power if they have a half million German soldiers on their side. The calculation may be dangerous; the anchor may prove unstable; the game is the same game which brought on two world wars. But there it is.

The Russians Are Too Late

The Russians fear that the rearmament of Western Germany is only the beginning. Once Western Germany is rearmed, it will be too late to turn back the clock. It is too late already. Just after the war ended, the Russians might have exchanged withdrawal from East Germany and free elections for a long term treaty demilitarizing the Reich, something like the 40-year pact Byrnes once proposed. But that is no longer practical American politics today. No American Administration could conceivably give up German rearmament; it is hard enough to sell co-existence and beat back the preventive war crowd. But what the Russians see is that after rearmament, there will be pressure for revision of the Oder-Neisse line.

What cards can the Russian play within the framework of the unfortunate political realities? One was shrewdly hinted at by Mendes-France in his United Nations speech last week—to the obvious displeasure of Washington and the real or pretended disapproval of London. It was simply that Molotov go ahead and organize the tighter East European military bloc he threatens, and then let the two blocs negotiate. "If by similar arrangements, the Soviet Union and the states associated with it adopted formulae symmetrical to ours, and provided that they included a certain degree of publicity," Mendes-France suggested, "an important step forward would have been taken toward our goal. Later, exchanges of information and mutual assurances could take place between the two systems. Perhaps, even, the limitations or controls might take on a contractual form. A flexible regional plan would thus gradually be set up, with the field of the application of the limitations, reductions and control increasing progressively."

East-West Pact on Germany Possible

In this context East-West negotiation could take place, and limitation be placed from both sides on German rearmament. Mendes-France, reflecting French political realities, even proposed that a conference be held on the subject in May, as soon as the unpleasant pill of ratification had been swallowed and months before a German army could be organized. Here lies the best hope at the moment. Nowhere in the West is public opinion strongly enough opposed to German rearmament to block it. The best bet is to bring about negotiations as soon as possible on the basis of ratification; the fewer Germans under arms when the conference meets, the easier it will be to put some limits on them.

The only other alternative fits neither the current pattern of Soviet policy nor Russia's own long range security needs. This alternative would be a withdrawal into armed isolation with an East European army in which East German contingents served; to let world tension and the pace of the arms race speed up again; to move toward war. In such a context, the West German army would grow larger and more threatening. Once more, as in 1939, the Russians would have the choice of preventive war against Germany or an illusory deal (again at Poland's expense) with the hope of turning the German cannon toward the West. I do not believe the Russians will make the same mistake again. I believe that there will be negotiation next spring after ratification but before there is a German army in being, and that on the basis of accepting a limited German rearmament the Russians may settle for something not so unlike Churchill's new Locarno and their own "European security system," but with American participation through the Atlantic alliance. This way something may yet be achieved.

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A Bulletin of Warning from Capitol Hill

Do not underestimate the importance of Jenner's proposal for a Senate Bureau of Investigation, a kind of Little FBI to harry and intimidate liberal Senators and purge their staffs on Capitol Hill. When McCarthy accused the Watkins committee of being the "unwitting" instruments of the Communist party, he was hoping to deflect the censure debate into an investigation of the Senate itself, beginning with the relations between Flanders and the Committee for An Effective Congress.

The Jenner speech of November 15 took up the cue and the "reply" made by Ed Johnson the following Thursday showed how dangerously effective this line may prove to be, whatever the immediate outcome on censure. Jenner charged the Communists and the labor movement generally with "maneuvering" so as to plant "a militant group of pro-Communist workers" in the districts of Congressmen they wished to defeat. He asked for a resolution to authorize the Rules committee, of which he is chairman, "to submit a report of the criteria to determine if and when any Senator elect should be refused admission to this body because he had been elected as a result of a deal with the Communists."

This would extend the notion of a Communist conspiracy to elections themselves, take the first step toward investigating voters in liberal or pro-labor areas, and lay the foundations for refusing to seat members of Congress they elected. Jenner pointed out that two former Congressmen, De Lacy and Bernard, have taken the Fifth and that Condon of California had been linked with the Communists. He said we needed an investigation to determine whether members of Congress "like Lee Geyer, of California; Savage, of Washington; Adolph Sabath, John Tolan, Glenn Taylor, Samuel Dickstein, John M. Coffee, Ernest Lundeen, Jerry O'Connell and Claude Pepper have given aid and comfort to the conspiracy initiated in Moscow."

Jenner said "We have followed the trail of Communists into our colleges, into the United Nations, into our cultural agencies like IPR, into trade unions and farming areas . . . But we have done almost nothing to disclose the degree of influence over Congress and the legislative process." He indicated that to oppose such an inquiry would be to make oneself suspect. "There is not a member of this body," Jenner declared, *"unless he is a secret Communist* [italics added], who is neutral in this contest."

Four days after this proposal, Johnson of Colorado, a member of the Watkins committee, rose and offered an amendment to the McCarthy censure resolution on behalf of himself and Byrd of Virginia and Daniel of Texas. The amendment said it was the sense of the Senate that the Communist party was part of a deadly international conspiracy. "Accordingly the Senate's appropriate committees should continue diligently and vigorously to investigate, expose and combat this conspiracy and all subversive elements and persons connected therewith." Including Senators themselves?

This kind of tactics, by accepting the premises of Jenner, opens the Senate door to snoop brigades. This is the logical end of the loyalty-security mania, which assumes that people must be screened before they are allowed even to be government clerks or stevedores. Why, then, leave them unscreened in more important functions? Should a "disloyal" citizen be allowed to vote? To work for a Senate committee? To sit in the Senate itself? This, which sounds like fantasy today, may be reality tomorrow.

Land of the Free, Home of the Brave

Washington—A young music teacher turned piano dealer was refused a license here last week to sell second-hand pianos because he had pleaded the Fifth amendment before the House Un-American Activities Committee.

Hearst and the Hearst Press Do An About Face on Co-Existence

Within the space of a week, young William Randolph Hearst, Jr., and the Hearst press have done an almost complete about-face on co-existence. The sharp change deserves attention not only because the Hearst press is important but because it is another indication that powerful interests are exerting pressure for peace.

On Sunday, November 14, Hearst papers featured a sour dispatch by their top Washington correspondent, David Sentner, headlined "Ike Plans to Make A Try at Co-Existence" and an "Editor's Report" by William Randolph Hearst, Jr., "Red Dove of Peace Hides War Feathers."

Hearst in his own weekly commentary said the Kremlin peace campaign was just a "transparent tactical device, implied that he thought Ike was being deceived by it and warned that there was a crisis coming over Formosa in which "the Eisenhower Administration may be sorry that it fell in with the Russian 'peace' campaign."

Exactly one week later, in the Hearst Sunday papers of November 21, the tune changed. "I think the entire nation will agree with President Ike," Hearst wrote, "that in this era of potentially total destruction, there is no genuine alternative to peace."

Fear of co-existence had dissipated. Hearst began to sound like a paraphrase of Henry Wallace in the old days. "There's no reason to believe," Hearst assured his readers, "that God-fearing democracy will not prevail in a long-range showdown with God-less Communism even though we move into the phase of 'peaceful co-existence.' This conflict between the two dogmas," Hearst continued, "will be the basis on which the cold war will be fought in the immediate future." Peaceful competition!

The Villains

"There are a number of indications that several White House advisers take kindly to this Soviet bait [of co-existence]. These include particularly Gen. Eisenhower's unofficial but highly influential counsellors: Milton Eisenhower, president of Pennsylvania State College; Lucius Clay, president of American Can Company; and John McCloy, chairman of the Board of Chase National Bank."

—Constantine Brown, Washington Star, Nov. 17.

The papers of the 21st also featured a Washington dispatch on the subject of co-existence by Howard Handleman, chief of the Hearst International News Service Bureau, "Soviet Soft-Pedals Atomic Power in Its New Cold War."

Handleman told readers the "Russian propaganda campaign for 'peaceful co-existence' appears to be a new set of unwritten 'ground rules' for the cold war." Atomic warfare would be "all but ruled out" while both sides instead tried out on each other "the subtle weapons of intrigue, infiltration, propaganda and subversion."

But unlike Knowland and Jenner, Handleman did not assume this would favor the Communists. "U.S. officials are not opposed to the new rules," he reported, "because they are confident America and her free world allies will win that kind of struggle."

When the peace bug bites the Hearst paper, *that's* news.

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One Way Local Witch Hunts Might Be Ended and Little McCarthys Curbed

Louisville and Miami Illustrate the Importance of the Nelson Case

Washington—Events in Louisville, Ky., and Miami, Fla., underscore the crucial importance of the appeal the U.S. Supreme Court has agreed to hear in the Steve Nelson case. The appeal was brought by Pennsylvania against the decision of its own Supreme Court. If the U.S. Supreme Court upholds the ruling of the State court, it will at one stroke end the growing number of instances in which State sedition acts are being used for local witch hunts.

None more shockingly illustrates the easy abuse of such statutes than the Louisville, Kentucky, case. There the prosecutor declares himself unable to find any clue to the men who dynamited a Negro home. Instead he is putting on trial today (Nov. 29) six white defendants who helped the Negro buy that home in a white neighborhood. The charge is sedition, but the real crime is an affront to white supremacy.

In Miami a local witch hunt with distinct anti-Semitic overtones received a setback last week when the Florida Supreme Court reversed contempt citations against 14 defendants who had pleaded the Fifth amendment before a special Red-hunting grand jury. Seventeen others have appealed to the court against similar contempt convictions. The prosecutor now asserts that he will seek their indictment under the Florida sedition law. This provides that persons may be sent to jail for 20 years for belonging to any organization designated "subversive."

The Pennsylvania Supreme Court reversed the 20-year sedition sentence imposed on a well-known Pittsburgh Communist organizer and Spanish civil war veteran, Steve Nelson. It held that by passing the sedition provisions of the Smith Act in 1940, Congress had superseded State legislation on the subject. This ruling, if upheld, would limit sedition prosecutions to the Federal courts.

State Attorneys General Alarmed

The witch hunters have been quicker to see the significance of this than civil libertarians. The Attorneys General of 27 States have joined in a brief *amicus curiae* filed by Louis C. Wyman, Attorney General of New Hampshire, who (as we explained in last week's issue) has been prosecuting the economist and teacher, Paul M. Sweezy, for contempt in an investigation under that State's sedition act.

One of the States joining in the appeal to the Supreme Court to reverse the Pennsylvania decision is Massachusetts. In a separate brief it cites the effect which a failure to reverse would have on three pending prosecutions in that State. These are the still untried 1951 indictment of Prof. Dirk J. Struik of M.I.T. and a Malden business man for sedition; the indictment last April of Otis Archer Hood for membership in a subversive organization; and the May indictment of Hood and others for "conspiracy to advocate."

The quality of the Wyman brief and the frenetic character of the pleading may be gathered from Wyman's argument that to uphold the Pennsylvania ruling would be to "take from the States their basic right to make criminal attempts to destroy their sovereignty, kill their loved ones if need be, and seize their homes."

But sedition is an ancient crime which seeks to punish the expression of ideas considered dangerous by the State. To take from State governments the power to deal with sedition would leave untouched the criminal laws which punish unlawful acts. Sedition statutes are not needed to deal with attempts to "destroy their sovereignty . . . kill their loved ones . . . seize their homes."

The Dangers of "Sedition"

"In *de Jonge v. Oregon*, 299 U.S. 253, Chief Justice Hughes, speaking for a unanimous court, wisely counselled that 'The greater the importance of safegarding the community from incitements to the overthrow of our institutions by force and violence, the more imperative is the need to preserve inviolate the constitutional rights of free speech, free press and free assembly in order to maintain the opportunity for free political discussion, to the end that government may be responsive to the will of the people and that changes, if desired, may be obtained by peaceful means. Therein lies the security of the Republic, the very foundations of constitutional government.' Surely, no more impressive admonition could have been given to the judiciary of our country. If this counsel is to be heeded faithfully, it is essential that criminal sanctions for conduct hostile to our Federal government be promulgated, imposed and controlled uniformly for the Nation as a whole. And that only the central government can accomplish."

—Penna. Supreme Court in the Nelson Case

Parallel in an Alien Case

The Pennsylvania court pointed out that the alleged sedition by Nelson was against the Federal government, not the State; that prosecution therefore should be left to the Federal government; that he had also been convicted under the Smith Act; that Pennsylvania's statute books had ample laws "adequate for coping effectively with actual or threatened civil disturbance," and that the Supreme Court (in *Hines v. Davidowitz*, 312 U.S. 52) had already held void on similar grounds a State law which duplicated another part of the Smith Act.

The Smith Act, as passed in 1940, carried provisions for the registration of aliens as well as for the punishment of sedition. Pennsylvania passed an Alien Registration Act of its own but this was declared unconstitutional by the Supreme Court on the ground that Congress had pre-empted the field of alien registration.

The problem of determining how and where State and Federal legislation may overlap is a delicate one. The U.S. Supreme Court in outlawing the Pennsylvania alien registration act said that in determining the question "it is also of importance that this legislation deals with the rights, liberties and personal freedom of human beings, and is in an entirely different category from state tax statutes or state pure food laws." Adopting the same standard, and construing State power narrowly where basic liberties are concerned, the Pennsylvania court held that the sedition provisions of the Smith Act had similarly superseded the State sedition law.

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The Lesson of the Field Affair for Those Who Believe in Socialism

The Soviet Bloc, Too, Needs A Bill of Rights

When the Budapest radio on November 16 announced the liberation of the Fields it said, "It has not been possible to justify the charge made in the past against the above-mentioned persons. Therefore, the competent state agencies have announced the case dismissed." Those who believe in socialism and those who believe in law may fruitfully ponder that laconic announcement.

If "it has not been possible to justify the charge made in the past" against the Fields, then the treason confession made by the Hungarian Foreign Minister Laszlo Rajk before he was executed in 1949 was false. Rajk "confessed" that Field was one of the secret American agents with whom he had conspired.

Had there been a real trial, there might have been a different outcome. The accused *had* counsel but the day before the sentencing of Rajk and his seven co-defendants, these ignominious lawyers rose and told the court their clients were guilty and they were defending them only as a matter of form.

A Whole Series of Frame-Ups

These seven were not the only victims. On October 14 the leading Communist paper in Budapest, *Szabad Nap*, announced that "many comrades" had been purged during 1947-51 on "invented" charges and were now being cleared and restored to duty. On November 21 the Hungarian radio announced that Anna Kethly, secretary general of the Hungarian Socialist party, had been freed after four years in jail. Clearly there were a lot of frame-ups.

Now let us return to the Fields. They just disappeared. They were not produced at the Rajk trial, obviously for fear that they would not support his confession. They were never tried at all. They were held incommunicado. They could not get in touch with relatives or friends. They could not phone a lawyer. They were sealed up in a living tomb as indeed the last missing Field, Mrs. Wallach, seems to be in a Soviet prison.

The Hungarian and Polish governments deserve credit for freeing the Fields. But they might have been saved the humiliating experience of appearing to act only in response to the revelations of the defecting Polish secret police official Swiatlo if they had allowed a decent minimum of legal rights to start with.

Injustice Will Not Wither Away

The lesson is that Communist States need a Bill of Rights just as much as capitalist States do, in fact more so because the Communist state controls livelihood, press and trade unions and leaves no interstices for the individual who wants to fight for his rights. The Nineteenth Century formula about the ultimate "withering away of the State" with which the Communists tried to meet the criticism of the snarchists is not enough. Communism is here, here to stay in a big part of the world. There has been a generation of experience with it. Let us try to sum it up.

Can mistakes be made in a Communist State? Obviously. Can it be assumed that every Communist official is honest? Obviously not, after the Hungarian, the Polish and last winter's Soviet revelations about the phoney "doctors' plot." Is it therefore possible that an innocent man may be convicted in a Communist court? Obviously. Is it possible that he might even be framed? Obviously.

Then the possibility of injustice does not vanish with the abolition of private property, as some have naively assumed. This does not mean that socialism is bad. It does mean, however, that it does not solve all problems and even creates new ones. It means that the same basic safeguards which help to enforce justice in a capitalist State are needed in a Communist State: habeas corpus—the right to get out of jail on bond and obtain a lawyer who will fight instead of grovel; the right to demand proof and confrontation in open court; a tradition of an independent judiciary; the right of appeal; and newspapers which will print things of which the government does not approve.

That we do not by any means live fully up to these ideals in our own society does not mean that the ideals are not good, or are not applicable in socialist society. With all that has been said—and that we say week after week in our little paper—a Field case is still impossible in this country despite the anti-Communist hysteria.

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